

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DENNIS DIMON,

Plaintiff,

VS.

**METROPOLITAN LIFE
INSURANCE COMPANY, KEMPER
INSURANCE COMPANY,
MORGAN STANLEY DW, INC.,
MICHAEL B. LATTI, LATTI
ASSOCIATES, and LATTI &
ANDERSON LLP,**

Defendants.

C. A. No: 05-11073 NG

**METROPOLITAN LIFE INSURANCE COMPANY'S
MOTION IN LIMINE
TO ADMIT EVIDENCE OF ANNUITY PAYMENTS**

ORAL ARGUMENT REQUESTED

Defendant, Metropolitan Life Insurance Company (hereinafter "MetLife"), moves for an Order to admit evidence or testimony at trial that MetLife or its predecessor, Charter Security Life Insurance Company (New York)¹, timely paid all amounts due Plaintiff Dennis Dimon under the Annuity (Contract #83A08153, the "Annuity") from June 5, 1983 to May 5, 2003 ("the twenty-year certain period").

There is no dispute among the parties that the Annuity called for MetLife to pay \$1,450.45 per month during the first year, increasing annually at a rate of 3% compounded annually for 240 months. MetLife timely paid 240 monthly payments to Mr. Dimon during this

¹ Not to be confused with Charter Security Life Insurance Company (*New Jersey*).

period. Plaintiff has confirmed receipt of each of these payments. (Dimon Deposition, pp. 9-10, Exhibit "A.")

While it is disputed that Defendants are responsible for paying Plaintiff annuity payments beyond May 5, 2003, all parties agree that MetLife timely made the appropriate monthly payments it was required to make during the twenty-year certain period. Plaintiff has not alleged and does not intend to claim that MetLife failed to make any of the Annuity payments due to him during the twenty-year certain period. Therefore, evidence as to these payments must be allowed into evidence. Conversely any purported testimony that MetLife failed to make any Annuity payments during the undisputed contract period must be excluded.

WHEREFORE, Metropolitan Life Insurance Company prays that this Court issue an Order excluding any evidence at the Trial that MetLife failed to make timely payments of the Annuity Benefits during the period of June 5, 1983 to May 5, 2003 and that evidence regarding the 20 year of payments made by MetLife be admitted.

REQUEST FOR ORAL ARGUMENT

MetLife respectfully requests that, pursuant to Local Rule 7.1(D), the Court schedule this matter for oral argument. Oral argument will assist the Court in making its decision on MetLife's Motion.

Respectfully submitted by:

Defendant,

METROPOLITAN LIFE INSURANCE
COMPANY,

By its Attorneys,

/s/ James J. Ciapciak
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on May 12, 2008.

/s/ Peter M. LeBlanc
Peter M. LeBlanc

A

1 Q. Okay. Did you ever have any trouble
2 getting your mail at any of your mailing addresses
3 since 1983?

4 A. Sometimes off and on, you know, it would
5 be misplaced or something, you know, wouldn't
6 receive some things. Like, one time I had to
7 track down my license because one of the renewals
8 was lost in the mail.

9 Q. Regarding the annuity payments that you
10 received in this case, did you ever have trouble
11 getting a check from MetLife in terms of mailing
12 you a check?

13 A. No, no.

14 Q. Okay. Was there a check that was mailed
15 to the wrong address in 1991?

16 A. Um, there was one, yes, and that was, I
17 was going through a separation then at that time,
18 but we wound up getting back together, and I
19 changed the mailing address to a post office box
20 and the other people that had the post office box
21 which canceled the post office box when I was out
22 fishing, and I didn't realize it, and then the
23 check had turned around and got sent back because
24 I never received it or anything.

1 Q. And was that check replaced --

2 A. Yeah.

3 Q. -- by MetLife?

4 A. Yeah, I called them up and had the check
5 replaced within, I forgot how many days it was,
6 but.

7 Q. Okay. Did you ever, between 1983 and
8 2003, not receive a monthly check from MetLife?

9 A. No.

10 Q. A payment on the annuity?

11 A. Right.

12 Q. So, you received every one of those
13 monthly checks?

14 A. Right.

15 Q. Okay. Can you tell me who your present
16 employer is?

17 A. Um, it's Mike, Mike Hall.

18 Q. Hall?

19 A. Hall.

20 Q. H-A-L-L?

21 A. I think that's how you pronounce it,
22 yeah.

23 Q. Okay. Does Mr. Hall have a title?

24 A. Um, he, he's the captain right now, he